

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Joseph Alfieri and Patricia Alfieri, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
Zimmer, Inc., Zimmer Holdings, Inc. and )  
Zimmer Orthopaedic Surgical Products, Inc., )  
)  
Defendants. )

Case No. 12-cv-8513

MEMO ENDORSED

Motion granted.  
So ordered  
✓ [Signature]  
1/23/13 WDJ

JOINT MOTION TO STAY PENDING  
TRANSFER TO MULTIDISTRICT PROCEEDINGS

The defendants, Zimmer, Inc., Zimmer Holdings, Inc., and Zimmer Surgical, Inc., f/k/a Zimmer Orthopaedic Surgical Products, Inc., and the plaintiffs, Joseph Alfieri and Patricia Alfieri (collectively, "the Parties"), respectfully move this Court, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, to stay all proceedings, including but not limited to the period for initial disclosures pursuant to Rule 26, and all other discovery and pretrial deadlines, pending transfer of this action to the Northern District of Illinois as part of multidistrict proceedings styled *In Re: Zimmer NexGen Knee Implant Products Liability Litigation*, MDL No. 2272 ("MDL-2272"). In support of this Motion, the Parties state:

1. Responsive pleadings are currently due on January 22, 2013, which time has not expired.
2. This is one of multiple product liability cases in which the plaintiffs allege that the defendants designed, manufactured, and sold an allegedly defective *NexGen* branded artificial knee implant, which allegedly caused the plaintiffs to suffer damages.

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3. On August 8, 2011, the JPML created MDL-2272 and began transferring cases involving *NexGen* branded artificial knee implants to the United States District Court for the Northern District of Illinois (the "Transferee Court") for consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See In Re: Zimmer NexGen Knee Implant Products Liability Litigation*, (J.P.M.L. 2011) [Doc. No. 110] attached as Exhibit A. Describing the primary purposes of consolidating these cases, the JPML stated that "[c]entralization under Section 1407 will eliminate duplicative discovery, prevent inconsistent pretrial rulings on *Daubert* and other pretrial issues, and conserve the resources of the parties, their counsel and the judiciary." *See id.* at 2.

4. The defendants submitted this action to the JPML as a tag-along for transfer to the Transferee Court on January 14, 2013, and the JPML will likely transfer it conditionally. *See* Notice Of Potential Tag-Along Action [Doc. No. 1078] attached as Exhibit B. The Parties expect transfer of this case to be completed promptly.

5. A stay of all proceedings in this Court pending transfer is appropriate because such a stay will promote judicial economy and consistency. Indeed, the Transferee Court is expected to decide multiple pre-trial issues likely to arise in the cases transferred to MDL-2272.

6. A stay in this Court pending transfer to the MDL-2272 will not prejudice any party.

WHEREFORE, the defendants and the plaintiffs respectfully request that this Court enter an order staying all proceedings in this Court, including but not limited to the period for initial disclosures pursuant to Rule 26, and other discovery and pretrial deadlines pending transfer of this case to MDL-2272, and that the Court grant all other appropriate relief.

Dated: January 22, 2013

Respectfully submitted,

/s/ Michael A. London

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Attorneys for the Defendants, Zimmer, Inc.,  
Zimmer Holdings, Inc., and Zimmer Surgical, Inc.,  
f/k/a Zimmer Orthopaedic Surgical, Inc.

**CERTIFICATE OF SERVICE**

The undersigned certifies that service of the Joint Motion To Stay Pending Transfer To Multidistrict Proceedings was made by means of the Notice of Electronic Filing, this the 22<sup>nd</sup> day of January, 2013, to the following counsel of record:

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/s/ Phoebe A. Wilkinson